

sideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

SMALL, Chairman.

(Minority Report.)

Committee Room,  
Austin, Texas, Oct. 7, 1936.  
Hon. Walter F. Woodul, President of  
the Senate.

Sir: We, a minority of your Committee on Civil Jurisprudence, to whom was referred S. R. No. 15,

Have had the same under consideration, and beg leave to differ with the majority and report it back to the Senate with the recommendation that it do pass, and be printed in the Journal.

MOORE,  
WESTERFELD.

Committee Room,  
Austin, Texas, Oct. 6, 1936.  
Hon. Walter F. Woodul, President of  
the Senate.

Sir: We, your Committee on Labor, to whom was referred

S. B. No. 5, A bill to be entitled "An Act to create an Unemployment Insurance System for the State of Texas; creating an Unemployment Compensation Fund; providing for collections, deposits, and investments of such funds; providing for withdrawals; providing for custody and management of such funds in certain contingencies; providing regular contributions and penalties; providing that claims for premiums shall have priority over other claims; etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, and that it be printed with committee amendments incorporated within the printed bill.

RAWLINGS, Chairman.

#### NINTH DAY.

Senate Chamber,  
Austin, Texas,  
October 8, 1936.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Walter F. Woodul.

The roll call disclosed a quorum, the following Senators being present:

Beck.  
Blackert.  
Burns.  
Collie.  
Cotten.  
Davis.  
DeBerry.  
Hill.  
Holbrook.  
Hornsby.  
Isbell.  
Martin.  
Moore.  
Neal.  
Nelson.

Oneal.  
Pace.  
Poage.  
Rawlings.  
Redditt.  
Sanderford.  
Shivers.  
Small.  
Stone.  
Sulak.  
Van Zandt.  
Weinert.  
Westerfeld.  
Woodruff.

Absent—Excused.

Regan.

Senators Excused.

Senator Regan was excused on account of important business on motion of Senator Rawlings.

Senator Nelson was excused on account of important business on motion of Senator Collie.

Prayer by Rev. B. W. Allen.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Hill.

#### Petitions and Memorials.

(See Appendix.)

#### Committee Reports.

(See Appendix.)

#### Bills and Resolutions.

##### Senate Bill No. 11.

By Senator Moore:

S. B. No. 11, A bill to be entitled "An Act amending H. B. No. 10, Regular Session, Forty-first Legislature, 1929; and declaring an emergency."

Read and referred to the Committee on State Affairs.

#### Petition.

The Chair laid before the Senate the following petition:

Richmond, Texas, Oct. 6, 1936.  
Lieut. Governor Walter Woodul,  
Austin, Texas.

The commissioners' court of Fort Bend County is opposed to diverting any funds whatever from the State Highway Department.

(Signed) JOHN M. MOORE, JR.,  
County Judge.

**Senate Bill No. 5.**

Senator Shivers received unanimous consent to take up S. B. No. 5 at this time.

The Chair laid before the Senate on its second reading the following bill:

S. B. No. 5, A bill to be entitled "An Act to create an Unemployment Insurance System for the State of Texas; creating an Unemployment Compensation Fund; providing for collections, deposits, and investments of such funds; providing for withdrawals; providing for custody and management of such funds in certain contingencies; providing regular contributions and penalties; providing that claims for premiums shall have priority over other claims; providing duties of employers and employees, and prescribing penalties; designating recipients of benefits and methods of determining and paying beneficiaries; etc., and declaring an emergency."

Senator Shivers moved to suspend the rule requiring printed copies of bills to lie on desks 24 hours.

The motion prevailed.

Senator Poage moved the adoption of the committee amendments as incorporated within the printed bill.

The amendments were adopted by a viva voce vote.

Amend S. B. No. 5, line 63, page 5, Section 8, by adding after the word "data" the following:

"necessary to the administration of this Act when"

SMALL.

Read and adopted.

Amend S. B. No. 5, Section 8, page 6, line 2, by striking out all of line 2 after the word "representatives" and also striking out all of line 3 and adding in lieu thereof the following:

"when necessary to secure information needed to administer this act"

SMALL.

Read and adopted.

Amend S. B. No. 5, Section 6, Article 4, page 7, beginning at line 19 and striking out all of sub-section (3).

SMALL.

Second reading called for.

**Motion to Table.**

Senator Shivers moved to table the amendment.

The motion lost by a viva voce vote.

The question recurred on the adoption of the Small amendment.

The amendment was adopted by the following vote:

Yeas—17.

Beck.	Oneal.
Blackert.	Poage.
Collie.	Sanderford.
Davis.	Small.
DeBerry.	Sulak.
Hornsby.	Van Zandt.
Isbell.	Weinert.
Martin.	Woodruff.
Neal.	

Nays—10.

Burns.	Pace.
Cotten.	Rawlings.
Hill.	Redditt.
Holbrook.	Shivers.
Moore.	Westerfeld.

Absent.

Nelson.	Stone.
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Absent—Excused.

Regan.

**Executive Session.**

Senator Oneal moved that the Senate go into executive session at 11:55 o'clock a. m.

The motion prevailed.

The time set for the executive session having arrived, the Chamber was cleared and the doors locked.

**After Executive Session.**

At 12:05 o'clock p. m., the conclusion of the executive session, the Secretary of the Senate informed the Journal Clerk there was no report to be made.

Amend S. B. No. 5, Article 6, Sub-section (a), line 61, by striking out all of said line after the word "for" and by striking out the word "than" in line 62 and striking out all of lines 63 and 64, and by striking out

the word "nine" and inserting the word "three."

**SMALL.**

Read and adopted.

Amend S. B. No. 5, Article 9, page 11, by striking out all of Article 9 and inserting in lieu thereof the following:

"Article IX. Unemployment Compensation Commission.

"(a) Organization. There is hereby created a commission to be known as the Unemployment Compensation Commission. The commission shall consist of seven members who shall be appointed by the Governor and confirmed by the Senate. Each member shall hold office for a term of six years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first taking office after the date of enactment of this Act shall expire as designated by the Governor at the time of appointment; one at the end of two years, one at the end of four years and one at the end of six years after the date of enactment of this Act. The Governor may at any time after notice and public hearing remove any commissioner for gross inefficiency, neglect of duty, malfeasance, misfeasance or non-feasance in office.

"(b) Divisions. The commission shall establish two cooperative divisions; the Texas State Employment Service Division created pursuant to Section 20 of this Act, and the unemployment compensation division. Each division shall be responsible for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget and duties, except insofar as the commission may find that such separation in local offices is impracticable because of the small size of the territory served or the volume of work performed.

"(c) Compensation. The actual necessary expense incurred by members of the Unemployment Compensation Commission in the discharge of their duties shall be paid from the Unemployment Compensation Administration Fund. But the members

of the commission shall not receive any salary or any other compensation for their labors.

"(d) Quorum. A majority of the commission shall constitute a quorum."

**POAGE,  
SMALL.**

Senator Small moved that the amendment lay on the table subject to call.

The motion prevailed by a viva voce vote.

**Recess.**

On motion of Senator Burns, the Senate recessed until 2:30 o'clock p. m.

**After Recess.**

The Senate met at 2:30 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Walter F. Woodul.

**Pending Business.**

The pending business was S. B. No. 5.

**Motion to Spread on the Journal.**

Senator Burns moved that the vote by which S. B. No. 2 failed of engrossment be reconsidered and spread on the Journal.

The motion prevailed.

Amend S. B. No. 5, page 17, line 47, by striking out all of Article 19, and inserting in lieu thereof the following:

"Article XIX. Bankruptcy. The taxes herein imposed shall have priority on equal basis with other taxes over creditors in bankruptcy.

"Provisions for Termination of Act and Return of Contributions. In the event the Supreme Court of the United States hold the Federal Social Security Act approved by the President, August 14, 1935, unconstitutional or inoperative for any reason whatsoever, then this Act shall become void, inoperative and of no effect and all payments of levies and taxes made hereunder and then remaining unexpended shall be upon proper proof returned ratably to those making such payments, and it shall be the duty of the Unemployment Compensation Commission to perform this Act.

"General Provisions. In all cases where the commission is given authority to make investigations, to assemble information and to require the submission of documentary or oral testimony it is the intention of the Legislature to grant to the commission only such powers as are necessary for the commission to exercise in order that they may properly administer this Act.

"Emergency Clause. Emergency is hereby declared and the constitutional rule requiring bills to be read on three days in each House is hereby suspended and this Act shall be in force from date of its passage and is hereby so enacted."

SMALL.

Read and adopted.

Amend S. B. No. 5 by adding thereto Article 20 to read as follows:

"Article 20. None of the provisions of this Act shall apply to any transportation agency which is included in or comes within the provisions of the Acts of Congress of the United States known as Railroad Retirement Acts."

HOLBROOK.

Motion to Table.

Senator Shivers moved to table the amendment.

Objections were heard.

Senator Shivers received unanimous consent to withdraw his motion to table.

Senator Shivers renewed his motion to table which prevailed by the following vote:

Yeas—14.

Reck.	Isbell.
Burns.	Moore.
Collie.	Oneal.
Cotten.	Redditt.
DeBerry.	Shivers.
Hill.	Van Zandt.
Hornsby.	Westerfeld.

Nays—9.

Blackert.	Sanderford.
Davis.	Small.
Holbrook.	Stone.
Martin.	Woodruff.
Neal.	

Absent.

Pace.	Sulak.
Poage.	Weinert.
Rawlings.	

Absent—Excused.

Nelson.

Regan.

Amend S. B. No. 5, by striking out Sub-section (c), Article X, page 13, lines 4 to 14, inclusive, and by striking out the following words in lines 15 and 16, page 13, "with the advise and aid of its advisory councils, and"

DAVIS.

Read and adopted.

Message From the House.

The Chair recognized the Door-keeper, who introduced a messenger from the House with the following message:

Hall of the House of Representatives,  
Austin, Texas, Oct. 8, 1936.

Hon. Walter F. Woodul, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

S. C. R. No. 4, A concurrent resolution as to the intention of the Legislature in the enactment of Chapter 13, Acts of 1932 of the Third Called Session of the Forty-second Legislature of Texas, and Chapter 136, Acts of 1933 of the Forty-third Legislature of Texas, Regular Session.

(As amended.)

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Amend S. B. No. 5, by adding a new section, page 17, at line 46, to be known as Paragraph (e), as follows:

"No department included in this Act shall use any of the means or funds appropriated to such department either directly or indirectly, for the purpose of telephoning, telegraphing or sending out literature, propaganda, letters or bulletins, or any other matter, printed or written, that will influence or tend to influence, in any way, the election of any candidate for office or the passage or defeat of any law or appropriation affecting any department included in this bill; and provided, further, that no stenographer or other employee whose salary is paid from funds provided under this Act, may be used or employed in any manner in the preparation or mailing out, or in any way handling such

literature, propaganda, letters or bulletins, or any other matter, printed or written, that will influence, or tend to influence, in any way the election of any candidate for office or the passage or defeat of any law or appropriation affecting any department included in this Act, and no such work shall be done or performed in any of the offices or rooms of the Capitol or any other State building.

"It is hereby declared unlawful for any person employed in any capacity in any of the departments to engage in or take part in any political campaign in relation to matters directly affecting the particular department in which the particular employee is employed, and/or concerning the election or re-election of any candidate for the head of the particular department by which such employee is employed; by "engaging in a political campaign" or "taking part in a political campaign" is meant and shall include distributing circulars, hand bills, posting pictures, handing out cards, making speeches, thereby soliciting or opposing the election of any candidate for office as the head of such department whereby the offending employee is employed.

"It is further declared unlawful for any employee of this department to go outside of the county of the residence of such employee and in any manner campaign for or against the election and/or re-election of any candidate for public office other than such department head of the department in which such employee is employed.

"Any such employee, engaging in such inhibited and unlawful conduct, shall be subject to removal from his position and restraint from reemployment in such department or any other department of government or sub-division thereof, for a period of five years by a judgment in the district court of the county wherein such unlawful activity occurred. Any five (5) or more qualified voters, residents of such county, shall have the authority to institute a suit in a district court of such county, praying for the removal of such employee from such department, citing such employee and the head of the department, and upon final hearing the allegations of the petition being sustained, the judgment shall be to discharge the employee and restraining

the head of the department from reemploying such employee for a period of one year from the date of the judgment.

"It is hereby further declared unlawful for any person authorized to use a State-owned automobile, in connection with any business of the State, to use such automobile in connection with any campaign in which such department is directly interested, or in behalf of the campaign for re-election of the head of any department, and/or in any other manner, time or place than when such automobile is being used in the interest of and for the purpose of carrying out departmental State business. Any person violating this section shall upon final conviction, be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00). In the event such use of such automobile is being made with the knowledge of the head of any department, having charge of such automobile, then such department head shall also be liable to punishment in a fine of two hundred dollars (\$200.00). Any court of competent jurisdiction in the county where this law is violated shall have jurisdiction to try such cause.

"It is hereby made the duty of every department head to furnish every employee of his department a copy of the law set out in the preceding three paragraphs, and to take the receipt of such employee therefor. These receipts shall at all times be kept accessible for public inspection and failure of any department head to comply with this mandate, shall constitute malfeasance in office, and upon judgment so adjudicating, such department head shall be removed from office."

WESTERFELD.

Read and adopted.

Amend S. B. No. 5, by striking out Sub-division (a) of Article IX and inserting in lieu thereof the following:

"The Board of Control of the State of Texas shall be the Commission under this Act."

MOORE.

Senator DeBerry sent up the following amendment to the Moore amendment:

Amend the Moore amendment by striking out the words "Board of Control" and insert in lieu thereof "The Industrial Accident Board."

DeBERRY.

Read and adopted.

#### Motion to Table.

Senator Shivers moved to table the amendment as amended.

Senator Shivers withdrew motion to table.

Senator Shivers renewed his motion to table the amendment of Senator Moore.

The motion lost by the following vote:

#### Yeas—9.

Beck.	Oneal.
Blackert.	Pace.
Burns.	Redditt.
Cotten.	Shivers.
Neal.	

#### Nays—15.

Collie.	Moore.
Davis.	Sanderford.
DeBerry.	Small.
Hill.	Stone.
Holbrook.	Van Zandt.
Hornsby.	Westerfeld.
Isbell.	Woodruff.
Martin.	

#### Absent.

Poage.	Weinert.
Rawlings.	

#### Absent—Excused.

Nelson.	Sulak.
Regan.	

The question recurred on the amendment as amended.

The amendment as amended was adopted by a viva voce vote:

Amend S. B. No. 5, page 13, by adding a new section to follow Section (d), Article X, as follows:

"It shall be unlawful for any public official except Unemployment Compensation Commission, to suggest or recommend the appointment to any position or employment provided for or created under this Act, and it shall also be unlawful to employ under this Act anyone who has a relative by blood or marriage who is now in the employ of the State in any department, except public schools or eleemosynary institutions, and

any public official who violates this provision shall be subject to the penalties prescribed under Section (e), Article XVII of this Act.

WESTERFELD.

The amendment failed of adoption by the following vote:

#### Yeas—5.

Holbrook.	Westerfeld.
Hornsby.	Woodruff.
Moore.	

#### Nays—20.

Beck.	Neal.
Blackert.	Oneal.
Burns.	Pace.
Collie.	Rawlings.
Cotten.	Redditt.
Davis.	Sanderford.
DeBerry.	Shivers.
Hill.	Small.
Isbell.	Stone.
Martin.	Van Zandt.

#### Absent—Excused.

Nelson.	Sulak.
Poage.	Weinert.
Regan.	

Amend S. B. No. 5, page 11, line 26, by striking out the words "in a summary manner," and insert in lieu thereof the words "and determined as other civil cases."

RAWLINGS.

Read and adopted.

Amend S. B. No. 5, page 11, lines 17 and 18, by striking out the words "in which action any other party to the proceeding before the commissioner shall be made a defendant."

RAWLINGS.

Read and adopted.

Amend S. B. No. 5, page 11, lines 29 and 30, by striking out the words "but not inconsistent with the provisions of this Act."

RAWLINGS.

Read and adopted.

Amend the amended Moore amendment to S. B. No. 5, Article 10, page 12, Sub-section (a), line 26, by adding after the word "commission," at the beginning of said sub-section, the following:

"It shall in the broad sense of the

term be the duty of the Industrial Accident Board to determine policies and it shall be the duty of the executive director to execute these policies and when acting within the power delegated to him by the Industrial Accident Board, the executive director shall have the power to perform any act which the board might legally perform except to sit as a board of review on appeals and the board may either sit as a board of review on appeal cases or they may establish a temporary or permanent board or boards of review which boards shall be composed of three men, each of whom shall possess the same qualifications as required of examiners, such board shall serve at the pleasure of the Industrial Accident Board and their compensation shall be fixed by the Industrial Accident Board, subject to other limitations in this Act."

SMALL.

Senator Small received unanimous consent to withdraw the above amendment and substitute in lieu thereof the following:

Amend S. B. No. 5, by striking out the amended Moore amendment, and inserting in lieu thereof the following:

"Article IX. Unemployment Compensation Commission.

"(a) Organization. There is hereby created a commission to be known as the Unemployment Compensation Commission. The commission shall consist of six members who shall be appointed by the Governor and confirmed by the Senate. Each member shall hold office for a term of six years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first taking office after the date of enactment of this Act shall expire as designated by the Governor at the time of appointment; two at the end of two years, two at the end of four years and two at the end of six years after the date of enactment of this Act. The Governor may at any time after notice and public hearing remove any commissioner for gross inefficiency, neglect of duty, malfeas-

ance, misfeasance or non-feasance in office.

"(b) Divisions. The commission shall establish two cooperative divisions; the Texas State Employment Service Division created pursuant to Section 20 of this Act, and the unemployment compensation division. Each division shall be responsible for the discharge of its distinctive function. Each division shall be a separate administrative unit with respect to personnel, budget and duties, except insofar as the commission may find that such separation in local offices is impracticable because of the small size of the territory served or the volume of work performed.

"(c) Compensation. The actual necessary expense incurred by members of the Unemployment Compensation Commission in the discharge of their duties shall be paid from the Unemployment Compensation Administration Fund. But the members of the commission shall not receive any salary or any other compensation for their labors.

"(d) Quorum. A majority of the commission shall constitute a quorum."

SMALL.

Read.  
Pending.

Point of Order.

Senator Moore raised the point of order that the Small amendment tried to amend an amended section of a bill, and that by parliamentary custom this is impossible.

The Chair, Lieutenant Governor Woodul, overruled the point of order.

Senate Resolution No. 16.

Whereas, The Prairie View Glee Club will be in Austin on Friday, October 9, 1936; and,

Whereas, This State school has a wonderful glee club; now, therefore, be it

Resolved by the Senate, That the Prairie View Glee Club be invited to appear before the Senate at 10:20 o'clock a. m., Friday, October 9, and render some of their songs.

BLACKERT.

Read and adopted.

**Recess.**

On motion of Senator Davis, the Senate recessed until 10 o'clock a. m. Friday.

**APPENDIX.****Committee on Engrossed Bills.**

Committee Room,  
Austin, Texas, Oct. 8, 1936.  
Hon. Walter F. Woodul, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. C. R. No. 7 carefully examined and compared and find same correctly engrossed.

POAGE, Chairman.

**NINTH DAY.**

(Continued)

Senate Chamber,  
Austin, Texas,  
October 9, 1936.

The Senate met at 10 o'clock a. m. pursuant to recess, and was called to order by President Pro Tem. Roy Sanderford.

**Pending Business.**

The pending business was the amendment by Senator Small to amend S. B. No. 5.

Amend the Small amendment by adding after the word "members" in line 3 the following: "Two representing labor, two representing industry and two representing the general public."

HILL.

Read and adopted.

The question recurred on Small amendment as amended.

The amendment as amended was adopted by the following vote:

Yeas—18.

Blackert.	Poage.
Burns.	Rawlings.
Cotten.	Redditt.
Davis.	Sanderford.
Hill.	Shivers.
Isbell.	Small.
Neal.	Weinert.
Oneal.	Westerfeld.
Pace.	Woodruff.

Nays—7.

Collie.	Moore.
DeBerry.	Stone.
Holbrook.	Van Zandt.
Hornsby.	

Absent—Excused.

Beck.	Regan.
Martin.	Sulak.
Nelson.	

Amend S. B. No. 5, page 13, beginning at line 15 and striking out all of sub-section (f) thru and including line 25.

DAVIS.

Motion to Table.

Senator Shivers moved to table the amendment.

The motion lost by the following vote:

Yeas—10.

Blackert.	Poage.
Burns.	Rawlings.
Collie.	Redditt.
Moore.	Shivers.
Oneal.	Van Zandt.

Nays—13.

Cotten.	Pace.
Davis.	Sanderford.
DeBerry.	Stone.
Hill.	Weinert.
Hornsby.	Westerfeld.
Isbell.	Woodruff.
Neal.	

Absent.

Holbrook.	Small.
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Absent—Excused.

Beck.	Regan.
Martin.	Sulak.
Nelson.	

The question recurred on the adoption of the amendment by Senator Davis.

Read and adopted.

**Glee Club Sings.**

At 10:15 o'clock the Chair announced that the time had arrived for the Prairie View Glee Club to entertain the Senate.

The Prairie View Glee Club appeared before the Senate and rendered a program.